

# Exhibit 9

Confidential – Subject to The Protective Order  
John Van Merkensteijn – April 20, 2021

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
CASE NO. 18-MD-2865 (LAK)

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IN RE: )

CUSTOMS AND TAX ADMINISTRATION OF )  
THE KINGDOM OF DENMARK )  
(SKATTEFORVALTNINGEN) TAX REFUND )  
SCHEME LITIGATION )

This document relates to case nos. )  
19-cv-01783; 19-cv-01788; 19-cv-01794; )  
19-cv-01798; 19-cv-01918 )  
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C O N F I D E N T I A L  
SUBJECT TO THE PROTECTIVE ORDER

CONTINUED REMOTE VTC VIDEOTAPED DEPOSITION UNDER  
ORAL EXAMINATION OF  
JOHN VAN MERKENSTEIJN  
VOLUME II  
DATE: April 20, 2021

REPORTED BY: MICHAEL FRIEDMAN, CCR

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37 (Pages 391 to 394)

<p style="text-align: right;">Page 391</p> <p>1       <b>A</b>     I -- I wouldn't know.</p> <p>2       <b>Q</b>     And would you agree with me that</p> <p>3 Freshfields, in April of 2012, put you and</p> <p>4 your partners on notice that if its plans</p> <p>5 were purchasing securities from</p> <p>6 short sellers, the legal basis for seeking a</p> <p>7 tax withholding reclaim would be doubtful?</p> <p>8       <b>MS. MCCARTHY:</b> Objection.</p> <p>9       <b>A</b>     Well, that's the -- that's the</p> <p>10 sentence you just read me, yeah, right.</p> <p>11       <b>Q</b>     So you received that advice from a</p> <p>12 law firm but you may not have paid attention</p> <p>13 to it at the time.</p> <p>14       Is that what you're saying?</p> <p>15       <b>A</b>     Well, I don't recall this</p> <p>16 particular conversation, but I don't know</p> <p>17 what followed from this.</p> <p>18       <b>Q</b>     Can you turn, please, to</p> <p>19 Exhibit 2235?</p> <p>20       <b>MR. WEINSTEIN:</b> Mark this as 2235.</p> <p>21       (Whereupon the above mentioned was</p> <p>22 marked for Identification.)</p> <p>23       <b>A</b>     Okay.</p> <p>24       <b>Q</b>     This is an e-mail from</p> <p>25 Mr. Markowitz to you on September 2, 2015.</p>	<p style="text-align: right;">Page 392</p> <p>1 And that's shortly after that Danish article</p> <p>2 about reclaim processing stopping came out.</p> <p>3       Do you recall that?</p> <p>4       <b>A</b>     Yes.</p> <p>5       <b>Q</b>     And Mr. Markowitz attaches an</p> <p>6 opinion from the Hannes Snellman law firm to</p> <p>7 Solo Capital?</p> <p>8       <b>A</b>     Right.</p> <p>9       <b>Q</b>     Do you know why Mr. Markowitz was</p> <p>10 sending you that opinion on September 2,</p> <p>11 2015?</p> <p>12       <b>A</b>     I don't recall.</p> <p>13       <b>Q</b>     Do you know if that opinion that he</p> <p>14 attached is one that you had seen at all</p> <p>15 prior to September 2, 2015?</p> <p>16       <b>A</b>     Well, it's familiar, but I don't</p> <p>17 recall when I first saw it.</p> <p>18       <b>Q</b>     Do you know if that was advice that</p> <p>19 you relied on at any point in time prior to</p> <p>20 September 2, 2015?</p> <p>21       <b>A</b>     I think it formed the basis for the</p> <p>22 conclusion that we could do the dividend</p> <p>23 arbitrage transactions in Danish securities.</p> <p>24       <b>Q</b>     Was there a point in time prior to</p> <p>25 September 2, 2015 that you saw it?</p>
<p style="text-align: right;">Page 393</p> <p>1       <b>A</b>     I'm confident that I did, but I</p> <p>2 don't recall when.</p> <p>3       <b>Q</b>     Why are you confident that you saw</p> <p>4 this prior to September 2, 2015?</p> <p>5       <b>A</b>     Well, because it looks familiar.</p> <p>6       <b>Q</b>     Well, you received it on</p> <p>7 September 2, 2015.</p> <p>8       The question is --</p> <p>9       <b>A</b>     Probably because I</p> <p>10 couldn't -- probably because I couldn't find</p> <p>11 it or something.</p> <p>12       I don't know.</p> <p>13       <b>Q</b>     You don't recall the circumstances?</p> <p>14       <b>A</b>     No.</p> <p>15       <b>MR. WEINSTEIN:</b> We've been going a</p> <p>16 little over an hour, I think, so why</p> <p>17 don't we take a break?</p> <p>18       <b>THE VIDEOGRAPHER:</b> Stand by. The</p> <p>19 time is 2:37 p.m. and we're going off</p> <p>20 the record.</p> <p>21       (Brief recess taken.)</p> <p>22       <b>THE VIDEOGRAPHER:</b> Stand by. The</p> <p>23 time is 2:49 p.m. and we're back on</p> <p>24 record.</p> <p>25       <b>Q</b>     Was Todd Rosenberg one of the</p>	<p style="text-align: right;">Page 394</p> <p>1 attorneys at Crowell &amp; Moring that you worked</p> <p>2 with regarding the Solo transactions?</p> <p>3       <b>A</b>     Yes.</p> <p>4       <b>Q</b>     Was he the primary attorney?</p> <p>5       <b>A</b>     I knew him.</p> <p>6       <b>Q</b>     Okay. Do you recall any of the</p> <p>7 names of any of the other attorneys that you</p> <p>8 worked with there on that issue?</p> <p>9       <b>A</b>     No, I don't.</p> <p>10       <b>Q</b>     Did you ever engage the Hannes</p> <p>11 Snellman firm to give you any legal advice?</p> <p>12       <b>A</b>     I believe the advice they gave was</p> <p>13 to Solo.</p> <p>14       <b>Q</b>     Did you ever engage the Hannes</p> <p>15 Snellman firm to provide you legal advice?</p> <p>16       <b>A</b>     Not that I can recall.</p> <p>17       <b>Q</b>     Okay. Did anyone engage that firm</p> <p>18 on behalf of any of your pension plans to</p> <p>19 provide legal advice?</p> <p>20       <b>A</b>     Not that I recall.</p> <p>21       <b>Q</b>     Did you ever speak with any</p> <p>22 attorneys from that firm?</p> <p>23       <b>A</b>     Me? Not that I recall.</p> <p>24       <b>Q</b>     How far back does your professional</p> <p>25 relationship with Mr. Ben-Jacob go?</p>